IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 983 OF 2006

Shri Dinesh Sayaji Jadhav ...Applicant.

V/s

The State of Maharashtra ...Respondent.

Mr. S.G. Rajput for the applicant.
Mr. R.Y. Mirza, APP for the State.

CORAM: V.M. KANADE, J.
DATE: 22nd March, 2006

P.C.:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant was arrested in connection with C.R. No.I-37/06 registered with Manpada Police Station for the offence punishable under sections 498A, 302, 34 of the Indian Penal Code.

3. It is alleged that the applicant and the deceased were married and they had three children out of the said marriage. It is alleged that the applicant was an alcoholic and used to demand money from his wife for purchasing a room. On the date of the incident, the accused came home in a drunken condition and his wife demanded money from him for the purpose of

admitting her daughter in school. The applicant replied that he did not have money and, therefore, it is alleged that the deceased poured kerosene on herself and the applicant set her on fire. The three dying declarations of the deceased have been recorded. In the first dying declaration, she has stated that she has committed suicide since she was feuds of life and that she did not blame any person. In the second dying declaration she has stated that on account of the said quarrel between the husband and the deceased she poured kerosene on herself and tried to set herself ablaze. However, she was not successful. It is then alleged that her husband lighted matchstick and gave the matchstick in her hand and, as a result, she caught fire. In the third statement, she has stated that her husband set her ablaze. Considering the variations in the dying declarations, in my view, the applicant is entitled to be released on bail.

4. Right from Khushalrao's case, it has been consistently held that if there is material variation in the dying declaration such a dying declaration cannot be a sole basis of conviction. Prima facie case, therefore, has been made out for grant of bail. The applicant be released on bail in the sum of Rs 5000/- with one or two sureties in the like amount.

He shall report to Manpada Police Station once in a month.

5. It is clarified that the observations made by this Court while passing this order may not be construed to mean as an expression of opinion on the merits of the case and the trial court shall decide the case on its own merits and in accordance with law.

6. Application is accordingly disposed of.

V.M. KANADE, J.